IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5093 OF 2005

Shridhar N. Kasture .. Petitioner

Versus

Smt.Ramla J. Agrawal).. Respondent

Mr.Pandey i/b.M/s.Pandey & Co. for the Petitioner.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 8TH AUGUST 2005

P.C.:

. The grievance made by the Petitioner is that the amendment application which he had filed for bringing certain documents on record has not been considered by the trial Court while decreeing the Suit nor by the Appellate Court while deciding the Appeal. According to the Petitioner, the alternate accommodation which has been acquired by the Respondent-landlord is a flat which he has purchased sometime in 1977. This flat was presented by him to his daughter and she in turn had sold the flat to some third party by an agreement of 16th April 2003. It is this information which the Petitioner sought to bring before the Court by filing amendment application. This amendment application was filed while the Petitioner was being cross-examined. The trial Court has found that the Petitioner had not made out any case

for protection under the Rent Act and that the landlord had established the ground under Section 13(1)(l) of the Bombay Rent Act. The Appellate Court has considered the fact that the premises which were in Ghatkopar had been sold only after the Suit was filed and hence these were new facts which were not required to be considered while the decree was being passed. The Appeal was, therefore, dismissed.

2. I see no reason to interfere with the concurrent findings of facts recorded by both the Courts below. It is obvious that the flat has been sold only on 16th April 2003, during the cross-examination of the Petitioner. This aspect need not be considered at all while decreeing the Suit. Hence, Petition rejected.